IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO. 371 OF 2004

Rajesh R. Kishnani .. Plaintiffs

versus

Indo tech Engineering Corporation

and Anr. .. Defendants

...

Ms.S.U. Lakdawala i/b M.L.Miranda for the plaintiff.

CORAM : D.G. KARNIK,J.

DATED : 16th March 2005.

P.C.:

1. Heard the learned counsel for the plaintiff. None present for the defendant. The plaintiff has filed on record the affidavit of service proving service of writ of summons on the defendants. Despite service, the defendants have not filed an appearance entitling the plaintiff to a decree under

Order 37 Rule 2(3) of the Code of Civil Procedure.

2. The plaintiff has also filed on record original documents under a list. The documents are collectively marked Exhibit-A for the purpose of identification. I have perused the plaint and the original documents filed on record. The defendant nos.1 and 2 are partnership firms. For a valuable consideration, the defendant no.1 drew a bill of exchange on defendant no.2 for Rs.50,000/-. The defendant no.2 accepted the bill of exchange. However, failed to make the payment. Therefore, by a notice of demand dated 20th November 2003, the plaintiff demanded payment from the defendants. The defendant failed and neglected to make the payment. The original bill of exchange, office copy of the notice and the original acknowledgements are filed on record. The plaintiff is therefore entitled to a decree in respect of the amount claimed. The future interest would be governed by section 34 of the Code of Civil Procedure. Considering the present rate of interest, it would be appropriate to grant 9% p.a. future interest. Hence, I pass the following order:-

3. The suit of the plaintiff is decreed as follows:-

4. The defendant shall pay to the plaintiff a sum of Rs.63,383/- together with interest on the principal sum of Rs.50,000/- at 9% p.a. from the date of the suit till payment and all costs of the suit.

5. Issue Court fee refund certificate as per rules.

D.G. KARNIK, J